



BY ECFS

EX PARTE

November 17, 2015

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Obsolete ILEC Regulatory Obligations That Inhibit Deployment of Next-Generation Networks*, WC Docket 14-192; *Petition of Granite Telecommunications for Declaratory Ruling Regarding the Separation, Combination and Commingling of Section 271 Unbundled Network Elements*, WC Docket 15-114; *Technology Transitions*, GN Docket 13-5; *AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition*, GN Docket No. 12-353.

Dear Ms. Dortch:

Granite Telecommunications, LLC ("Granite") provides this brief response to Verizon's ex parte letter filed in these dockets on November 9, 2015. In its previous filings in these dockets, Granite has rebutted most of the arguments raised by Verizon. However, Verizon does raise one new argument in its November 9th letter. Verizon asserts for the first time that the Commission's *Omaha Forbearance Order*¹ supports USTelecom's petition for forbearance, claiming that the Commission found in that order that ILECs used commercial agreements to keep customers on the ILECs' network in the face of "ubiquitous" cable competition. However, Verizon fails to point out that the *Omaha Forbearance Order* found "most persuasive" the unique circumstances wherein Cox Cable had a significantly high share of the residential market compared to Qwest.² The *Omaha Forbearance*

¹ *Petition of Qwest Corporation for Forbearance Pursuant to 47 USC § 160(c) in the Omaha Metropolitan Statistical Area*, Memorandum Opinion and Order, 20 FCC Rcd 19415 (2005), *pets. for rev. dismissed and denied on the merits*, *Qwest v. FCC*, 482 F.3d 471 (D.C. Cir. 2007).

² See *id.* ¶ 25; see also ¶¶ 28, 45. It is also noteworthy that in ¶ 38 of the order, the Commission found that "even if Qwest has some advantages regarding lower costs, sheer size, superior resources, financial strength, or technical capabilities -- an issue we do not decide in the abstract -- Qwest does not have such advantages relative to Cox in the Omaha MSA." These circumstances are simply not present throughout the United States as a whole, which is the geographic area in which USTelecom seeks forbearance. For example, when Verizon itself sought to apply the principles of Omaha to six of its own markets, the Commission denied Verizon's application, stating that: "Verizon's market shares in the MSAs at issue, measured consistent with our approach in the *Qwest Omaha Forbearance Order* and *ACS Dominance Forbearance Order*, are sufficiently high to suggest that competition in these MSAs is not adequate to ensure that the 'charges, practices, classifications, or regulations . . . for [] or in connection with that . . . telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory' absent the regulations at issue. As a threshold matter, the record evidence does not reflect that in any of the 6 MSAs do the cable operators, even in the aggregate, have more than a [REDACTED] percent share of the market for mass market telephone services in an MSA." *Petitions of Verizon Telephone*

Order did not address the types of multi-location business customers that Granite serves with wholesale voice platform services. As Granite has demonstrated in several filings, the vast majority of Granite's customers are not served by cable providers, and cannot be served by cable providers without construction costs.³ Therefore, there is no basis to conclude that if Verizon or other ILECs stop offering wholesale platform services at commercially reasonable rates, as they now do, they would be at risk of losing significant numbers of customers now served by the platform to cable providers.

Granite further points out that while Verizon stated in its November 9th letter that it has been continuing to allow CLECs to serve customers under Wholesale Advantage agreements after switching from copper to fiber, neither Verizon nor any other ILEC has committed that CLECs will be able to continue to use wholesale voice platform services after the ILEC switches to IP.

Please contact me if you have questions regarding this filing.

Very truly yours,



Michael B. Galvin
General Counsel

Enclosure

cc: (by email)
Matthew DelNero
Daniel Kahn
Randy Clarke
Jodie May
Clark Hedrick
Shanna Holako
Megan Capasso
Alexis Johns
Brian Hurley

Sam Kline
Paula Foley

Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Boston, New York, Philadelphia, Pittsburgh, Providence and Virginia Beach Metropolitan Statistical Areas, 22 FCC Rcd 21293, 21307-08, ¶ 27 (2007), remanded, *Verizon Tel. Cos. v. FCC*, 570 F.3d 294 (D.C. Cir. 2009) (internal footnotes omitted).

³ See Letter from Thomas Jones, Counsel, Granite Telecommunications, LLC, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 13-5 et al., at Attach. (filed June 3, 2015) (stating that Granite serves 4,800 companies with 1.4 million business lines at 400,000 customer locations across all 50 states); Letter from Thomas Jones, Counsel, Granite Telecommunications, LLC, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 13-5 et al., at Attach. (filed May 29, 2015) (asserting that "[i]n 51% - 85% of our customer locations, the ILECs will be the only provider available to the small business market, if wholesale use of RBOC/ILEC network is not continued.").